NATIONAL BANKS—LIABILITY OF DIRECTORS.—The opinion of the court in *Gerner* v. *Mosher* (Neb.), 384, contains a full discussion of the liability of officers and directors of national banks for false statements in the published reports required by law. It is held, *inter alia*, that the word "attest," as used in sec. 5211 Rev. Stat. U. S., means, in effect, "We, as directors, certify to the correctness of the foregoing report, basing our certification on the knowledge which we possess by a proper discharge of our duties as directors." And that one who purchases shares in an insolvent national bank, in reliance upon such published statements, which are false in fact, may maintain an action for damages against such attesting directors, even though the latter did not know of their falsity, provided a proper discharge of their duty would have discovered it.

LANDLORD AND TENANT—BREACH OF COVENANT TO REPAIR.—Plaintiff leased certain premises to the defendant, and covenanted to keep the roof in good repair. Subsequently, in an action for the rent, the lessee offered a counter-claim for damages to his goods by reason of the failure of the lessor to repair the roof. Defendant knew of the leaky condition of the roof some time before the injury to the goods occurred. *Held*, that the tenant, after notice to the landlord and the latter's failure to repair, should himself have repaired the roof and recouped for the amount so expended. Not having done so, he cannot recover over against the landlord the damages for injury to his goods. His measure of damages is the difference in the rental value of the premises as they were and as they would have been had the lessor kept his covenant to repair. *Reiner* v. *Jones*, 56 N. Y. Supp. 423.

CORPORATIONS—PAYMENT OF SUBSCRIPTIONS IN PROPERTY.—The most advanced doctrine declared on the subject of the payment for stock in a corporation by a transfer of property is that of *Van Cleve* v. *Berkey* (Mo.), 42 L. R. A. 593, holding that the subscriber must pay in property which is actully equivalent to the par value of the stock, and that his good faith and his belief that the property is of that value will not relieve him from liability if it is not in point of fact of such value. With this case is a note reviewing all the authorities on the buestion how far payment for stock in a corporation by a transfer of property will protect the stockholder against creditors of the company.

Good faith in the valuation put upon property for which stock of a corporation is issued is all that is demanded in *Kelly* v. *Fourth of July Mining Co.* (Mont.), 42 L. R. A. 623, under a law which provides that stock may be issued for property to the amount of the value thereof. And this good faith is held to be such belief as a prudent and sensible business man would hold in the ordinary conduct of his business.

FRAUD—HUSBAND AND WIFE—WIFE PROCURING CONVEYANCE FROM HUSBAND, WITH INTENT TO DESERT.—In *Basye* v. *Basye* (Ind.), 52 N. E. 797, it is held that false protestations of affection on the part of a wife, by which she induces her husband to settle property upon her, with the fixed intention of deserting him and procuring a divorce, is a fraud for which a court of equity will avoid the conveyance.

The court cites numerous cases where the wife, though supposed to be the

weaker vessel, has proved to be the dominating force in the marriage union. The earliest cited by the court is *Samson* v. *Delilah*, Judges, xvi. The leading and earliest case, however, is *Adam* v. *Eve*, Genesis, iii. Other cases cited as illustrating the principle that a husband may be relieved in such cases are: *Evans* v. *Carrington*, 2 DeGex, F. & J. 481; *Evans* v. *Edmonds*, 13 C. B. 777; *Brison* v. *Brison*, 75 Cal. 525 (17 Pac. 689); *Bartlett* v. *Bartlett*, 15 Neb. 593 (19 N. W. 691); *Turner* v. *Turner*, 44 Mo. 539; *Stone* v. *Wood*, 85 Ill. 603; *Meldrum* v. *Meldrum*, 15 Col. 478 (24 Pac. 1083).

CORPORATIONS TORTS—LIABILITY OF DIRECTORS.—A corporation stored in its warehouse in a city a large quantity of explosives, contrary to a State statute. By an explosion of such material, plaintiff's intestate was killed. In an action against the corporation and its directors, it was *Held*, that the directors, though ignorant of the excessive amount of explosives on storage, were personally liable, if in the exercise of ordinary diligence as directors they could have known the true situation. *Cameron* v. *Kenyon-Connell, etc. Co.* (Mont.), 56 Pac. 358.

The principle which the court seems to have correctly applied is that the company and the directors owed a high legal duty to the public in the matter of the storage of explosives, and for a breach of this duty the vicarious character of the directors cannot be set up in excuse. *Nunnelly* v. *Iron Co.* (Tenn.), 28 L. R. A. 241 (29 S. W. 361); *Bank* v. *Byers* (Mo.), 41 S. W. 325; *Baird* v. *Shipman*, 132 Ill. 16, s. c. 22 Am. St. Rep. 504, and valuable note discussing the liability of an agent to third persons for non-feasance; *Mayer* v. *Building Co.* (Ala.), 28 L. R. A. 433 and note; 1 Va. Law Reg. 780.

ABATEMENT—PENDING ACTION.—To a delaration in tort, defendant pleaded the pendency of another action, instituted simultaneously, against the same defendant, by the same plaintiff, in the same court, upon the same cause of action. Plaintiff demurred. *Held*, that the prosecution of the two suits is vexatious, and the second will be abated; but if the court cannot ascertain which is second, both will abate. *Dengler* v. *Hays* (N. J.), 42 Atl. 775.

Authorities cited: *Pie* v. *Coke*, Hob. 128; *Beach* v. *Norton*, 8 Conn. 71; 1 Enc. Pl. & Prac. 753.

The principle that where two actions are commenced at identically the same time, between the same parties, involving the same subject-matter, each will abate the other, and no subsequent discontinuance of either will validate the other, is recognized also in *Wales* v. *Jones*, 1 Mich. 254; *Davis* v. *Dunklee*, 9 N. H. 545; and *Haight* v. *Holley*, 3 Wend. 258.

The general subject of pendency of one action as a defense to another, is discussed, with full citation of authorities, in note to *Smith* v. *Lathrop*, 84 Am. Dec. 452-456.

CONFLICT OF LAWS—STATUTORY LIABILITY OF MASTER FOR NEGLIGENCE OF FELLOW-SERVANT.—Plaintiff's intestate, a locomotive fireman in the employ of the defendant, was killed in a collision resulting from the negligence of a fellow-servant. The casualty occurred in Indiana, under the statutes of which State the master is liable for the consequences of the fellow-servant's default. The action was instituted in Illinois, where the common law doctrine prevails.